

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:02CV434

v.

DeMERT & DOUGHERTY, INC.,

Defendant.

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§9606 and 9607.

B. The United States in its complaint seeks, *inter alia*: (1) reimbursement of costs incurred by the United States in responding to the release and threatened release of hazardous substances at the American Chemical Service, Inc. Superfund Site ("ACS Site") in Griffith, Indiana, together with accrued interest; and (2) performance of studies and response work by the Defendant at the Site not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

C. The ACS Site RD/RA Executive Committee ("ACS Group") seeks contribution from Defendant pursuant to Section 113(f) of CERCLA, 42 U.S.C.

§9613, for Defendant's share of past and future CERCLA response costs with respect to the ACS Site.

D. DeMert & Dougherty, Inc. ("DeMert") filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the U.S. District Court for the Northern District of Illinois ("Bankruptcy Court") on January 11, 1996 (the "Petition Date"). (*In re: DeMert & Dougherty, Inc.* (Bankr. N.D. Ill. (Eastern Div. No. 96 B 0851)). After the Petition Date, DeMert managed its affairs and operated its business as a debtor in possession until June 13, 1996.

E. On June 10, 1996, the Bankruptcy Court entered an Order directing the appointment of a Chapter 11 Trustee. The Trustee was appointed as the Chapter 11 Trustee on June 13, 1996. On June 27, 1996, the Bankruptcy Court converted the bankruptcy to a Chapter 7 liquidation. The Trustee was appointed as the interim Chapter 7 Trustee on June 28, 1996, and as the Chapter 7 Trustee on July 8, 1996.

F. On September 30, 1996, the ACS Group filed a proof of unsecured claim in the bankruptcy in the amount of \$70,036,426.68 (Claim No. 690) and also filed an administrative proof of claim in the amount of \$36,426.68.

G. In early 1999, DeMert and the ACS Group reached an agreement with respect to compromise and allowance of the ACS Group's administrative claim (the "ACS Administrative Claim Compromise"). The ACS Administrative Claim Compromise was approved by the Bankruptcy Court by its "Order Approving Compromise" dated March 19, 1999.

H. Among other things, under the ACS Administrative Claim Compromise, the Trustee assigned to the ACS Group the right of DeMert, if any, to receive payments under certain insurance policies in connection with claims relating to the ACS Site.

I. On or about November 27, 1996, the United States, acting on behalf of EPA, filed a Proof of Claim in the bankruptcy, alleging that DeMert is liable to the United States under CERCLA for the costs incurred and to be incurred by the United States in responding to the release and threatened release of hazardous substances at the Site. The United States alleges that DeMert is liable for such costs because it arranged for the treatment or disposal at the ACS Site of CERCLA hazardous substances that it owned or possessed. In its claim, the United States asserted entitlement to a general unsecured claim for past and future response costs in an amount exceeding \$70,480,096.

J. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. §9621(f)(1)(F), EPA notified the State of Indiana (the "State") on or about November 30, 2001, of negotiations with DeMert and provided the State with an opportunity to participate in such negotiations and any resulting consent decree.

K. Pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, EPA placed the Site on the National Priorities List set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register of September 21, 1984 (49 Fed. Reg. 37070).

L. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, DeMert and members of the ACS Group commenced in 1989, a Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to 40 C.F.R. §300.430.

M. DeMert and members of the ACS Group completed a Remedial Investigation ("RI") Report in 1991, and DeMert and members of the ACS Group completed a Feasibility Study ("FS") Report in 1992, under an Administrative Order on Consent (EPA Docket Number V-W 88-C-113).

N. Pursuant to Section 117 of CERCLA, 42 U.S.C. §9617, EPA published notice of the completion of the FS and of the original proposed plan for remedial action on June 30, 1992, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on that proposed plan for remedial action. EPA held a public meeting on the proposed plan on July 9, 1992, in Griffith, Indiana. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator based the selection of the response action.

O. The decision by EPA on the remedial action to be implemented at the Site is embodied in a Record of Decision ("ROD"), executed on September 30, 1992, and an amended final Record of Decision ("Amended ROD") executed on July 27, 1999, in which the State concurred. The Amended ROD includes: (1) EPA's explanation of any significant differences between the original ROD and the Amended ROD; (2) the final plan and the original proposed plan; and

(3) a responsiveness summary to the public comments. Notices of the final plan, ROD and Amended ROD were published in accordance with Section 117(b) of CERCLA, 42 U.S.C. §9617(b).

P. Following issuance of the ROD, DeMert and the members of the ACS Group proceeded with the implementation of EPA-approved Remedial Design activities at the ACS Site under a Unilateral Administrative Order ("UAO") that EPA issued to certain members of the ACS Group, including DeMert, on September 30, 1994 (EPA Docket Number V-W-95-C-260). DeMert and the members of the ACS Group completed the following requirements of the UAO: treatability and materials handling studies, installation of a Perimeter Ground Water Collection system at the northwest perimeter of the Site, installation of a ground water treatment system, sampling and analyses tasks to monitor cleanup progress, and completion of an EPA-approved Final Remedial Design Report.

Q. The United States has entered into five previous settlements concerning the ACS Site: (1) in 1994, U.S. EPA and the Department of Justice negotiated an Administrative Order on Consent ("AOC") which resolved the United States' claims against 1,020 parties and recovered approximately \$25.6 million which was deposited in an "ACS Site-Special Account" within the Superfund (two federal agencies connected to the Site, the U.S. Postal Service and the Defense Reutilization and Marketing Service, also resolved their *de minimis* liability at the Site under the 1994 AOC); (2) under a 1998 amendment to the 1994 AOC, eight *de minimis* parties who did not receive notice of the

1994 settlement paid an additional \$35,593, which was also deposited into the ACS Site-Special Account; (3) in 1999, the U.S. Bankruptcy Court for the District of Delaware approved a multi-site, nationwide settlement of all of the United States' environmental claims against Montgomery Ward (whose subsidiary, Standard T Chemical Co., is a potentially responsible party ("PRP") at the Site), under which EPA received a maximum allowed claim of \$2,648,000 for the ACS Site, and the ACS Group received an allowed claim of \$150,000; (4) under a Consent Decree that was entered by this Court on January 9, 2001 (Civ. No. 2:00CV430), thirty-nine companies comprising the ACS Group were obligated to pay \$300,000 in compensation for natural resource damages ("NRD") associated with the Site and up to \$30,000 towards past NRD assessment costs incurred by the U.S. Department of the Interior and the State of Indiana; and (5) under a separate consent decree entered January 9, 2001, the same thirty-nine members of the ACS Group agreed to finance and perform EPA's remedial action for the Site at an estimated cost of \$45 million.

R. The mutual objectives of the United States, DeMert and the ACS Group (the "Parties") are to resolve the civil claims set forth in the United States' Complaint in this matter, the Proofs of Claim filed by the United States and the ACS Group in the DeMert bankruptcy proceeding under the terms set forth in this Consent Decree, and any other claims related to the ACS Site that the parties could have brought against each other.

S. DeMert, by entering into this Consent Decree does not admit any liability to the United States arising out of the transactions or occurrences

alleged in the complaints, nor does DeMert acknowledge that the release or threatened release of hazardous substance(s) at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment, nor does DeMert acknowledge any liability to the ACS Group.

T. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that implementation of this Consent Decree will expedite the cleanup of the Site and that settlement of this matter pursuant to the terms of this Consent Decree and without the admission or adjudication of any issue of fact or law is the most appropriate means of resolving the United States' lawsuit and the competing bankruptcy claims of the United States and the ACS Group, will avoid prolonged and complicated litigation among the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is
ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1345 and 42 U.S.C. §§9606, 9607 and 9613(b) and also has personal jurisdiction over DeMert. DeMert and the ACS Group consent to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, and upon DeMert, and the ACS Group, and their heirs, successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of DeMert or the ACS Group under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

a. "ACS Group" or "ACS Committee" is the unincorporated association whose members individually comprise the ACS Site RD/RA Executive Committee, and whose members signed the 2001 "RD/RA Consent Decree" for the ACS Site that was entered by this Court on January 9, 2001 under which the signatories agreed to perform the remedial design ("RD") and the remedial action ("RA") for the Site set forth in the Amended Record of Decision of July 27, 1999, and to reimburse EPA and the United States Department of Justice for the costs

they incurred and would incur for response actions at the Site. The members of the ACS Group are set forth in Appendix A.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. §9507.

g. "Non-settling potentially responsible parties" shall mean those parties potentially responsible for response costs at the ACS Site who have not entered into the terms and conditions of this Consent Decree, or the Consent Decrees, Administrative Order on Consent and

amendment thereto, or other settlements referenced in Part I.L. of this Consent Decree.

h. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

i. "Parties" shall mean the United States, DeMert, and the ACS Group.

j. "Plaintiff" shall mean the United States of America.

k. "RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

l. "RD/RA Consent Decree" shall mean the Consent Decree that was entered by this Court in *United States v. American Chemical Service, Inc., et al.*, No. 2:00CV438, and *State of Indiana v. American Chemical Service, Inc., et al.*, No. 2:00CV437, on January 9, 2001 under which the signatories agreed to perform the remedial design ("RD") and the remedial action ("RA") for the Site, and to reimburse the EPA and the United States Department of Justice for the costs they incurred for response actions at the Site.

m. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

n. "DeMert & Dougherty, Inc." and/or "DeMert" shall mean the Defendant in this matter and the Debtor in Case No. 96 B 0851 (Chapter 7) pending in the United States Bankruptcy Court for the Northern

District of Illinois. In the bankruptcy case, Alex D. Moglia has been appointed the Chapter 7 trustee.

o. "Site" shall mean the American Chemical Service, Inc. Superfund site, encompassing approximately 36 acres, located at 420 S. Colfax Avenue, Griffith, Lake County, Indiana.

p. "State" shall mean the State of Indiana.

q. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. PAYMENT OF RESPONSE COSTS/RESOLUTION OF BANKRUPTCY

CLAIMS

4. a. The ACS Group's claim in the bankruptcy shall be allowed as a general unsecured claim in the amount of \$2,225,000, and paid as a general unsecured claim and treated without discrimination consistent with whatever treatment is accorded all general unsecured claims against DeMert, and the ACS Group will be deemed to have withdrawn its Claim for any amount in excess of \$2,225,000.

b. The United States' claim in the Bankruptcy shall be deemed to have been withdrawn.

5. a. One half of the total amount to be paid pursuant to Paragraph 4(a) shall be deposited in the "ACS Construction Account" within the Hazardous Substance Superfund, pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. §9622(b)(3), and shall be available for reimbursement of the ACS Group's Operation and Maintenance Costs pursuant to Paragraph 19.b of the

RD/RA Consent Decree. Such amount shall not be deposited in the "ACS Special Account" or the "ACS Reserve Account" and shall not be subject to paragraph 19.d of the RD/RA Consent Decree.

b. One half of the total amount to be paid pursuant to Paragraph 4(a) shall be deposited in the "ACS Special Account" within the Hazardous Substance Superfund, pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. §9622(b)(3), to be retained and used by EPA to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund pursuant to paragraph 25 of the RD/RA Consent Decree. Such amount shall not be deposited in the "ACS Construction Account" or "ACS Reserve Account."

6. Only the amount of cash received by EPA for its use (or net cash received by EPA on account of any non-cash distributions) from DeMert under this Consent Decree, and not the total amount of the Allowed Claim, shall be credited by EPA to its accounts for the Site, which credit shall reduce the liability of non-settling potentially responsible parties to EPA for the Site by the amount of the credit.

7. a. DeMert shall make the payments described in Paragraph 5 by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO file number 1988VO1479; EPA Region 5; EPA Spill Identification Number 05J7; the ACS Site-Special Account; and DOJ Case Number 90-11-3-1094/2. Payments shall be made in accordance with instructions to be provided to

DeMert by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Indiana upon DeMert's request. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day.

b. At the time of payment, DeMert shall send EPA, the U.S. Department of Justice, and the ACS Group notice that payments have been made to in accordance with Section XI (Notices and Submissions) and to:

U.S. EPA Region 5
Superfund Accounting
P. O. Box 70753
Chicago, IL 60673

Michael J. McClary
Associate Regional Counsel
U.S. EPA Region 5
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604-3590

8. If the United States brings an action to enforce this Consent Decree, DeMert, to the extent that the United States asserts claims against Demert, or the ACS Group, to the extent that the United States asserts claims against the ACS Group, shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time. If Demert or the ACS Group bring an action to enforce this Consent Decree, each party shall bear its own costs, expenses and attorneys fees with respect to claim asserted against the United States; with respect to claims asserted against each other, the prevailing party shall be entitled to recover its reasonable costs, expenses and attorneys fees from the non-prevailing party.

VI. COVENANTS NOT TO SUE AND RESERVATION OF RIGHTS BY UNITED STATES

9. In consideration of the payments or distributions that will be made by DeMert under the terms of this Consent Decree, except as specifically provided herein, the United States covenants not to sue or to take administrative action against DeMert pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§9606 and 9607(a) with regard to the Site. With respect to present and future liability, this covenant shall take effect upon receipt by EPA of all amounts required by Section V (Payment of Response Costs/Resolution of Bankruptcy Claims). This covenant not to sue is conditioned upon the satisfactory performance by DeMert of its obligations under this Consent Decree. This covenant not to sue extends only to DeMert and does not extend to any other person.

10. The United States reserves, and this Consent Decree is without prejudice to, all rights against DeMert with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 9. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against DeMert with respect to:

- a. liability for failure of DeMert to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability, based upon DeMert's ownership or operation of the Site, or upon DeMert's transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by DeMert; and

e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

VII. COVENANT NOT TO SUE BY DEMERT

11. DeMert covenants not to sue and agrees not to assert any claims or causes of action against the United States or the State, or their contractors or employees, with respect to the Site or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. §1491, the Equal Access to Justice Act, 28 U.S.C. §2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§9607 and 9613, relating to the Site.

12. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. §9611, or 40 C.F.R. 300.700(d).

13. DeMert covenants not to sue and agrees not to assert any claims or causes of action against the ACS Group with respect to the Site, with the exception of any action to enforce the terms of this Consent Decree. This waiver shall not apply with respect to any defense, claim, or cause of action that DeMert may have against any person if such person asserts a claim or cause of action relating to the Site against DeMert.

VIII. COVENANT NOT TO SUE BY ACS GROUP AND ASSIGNMENT OF RIGHTS TO CLAIM INSURANCE PROCEEDS BY DEMERT

14. a. The ACS Group covenants not to sue and agrees not to assert any claims or causes of action against DeMert with respect to any claim with respect to the Site, with the exception of any action to enforce the terms of this Consent Decree.

b. DeMert hereby assigns to the ACS Group, without warranty of any kind except as set forth immediately below in this Paragraph, without recourse to DeMert, any and all of DeMert's rights to receive payment under the insurance policies referenced in that certain Letter Agreement dated February 18, 1999 between DeMert and the ACS Group as part of the ACS Administrative Claim Compromise ("Letter Agreement"), for DeMert's alleged share of liability for past and future response costs with respect to the ACS Site. DeMert represents and warrants that it has not assigned its rights to receive such payments, if any, to any person or entity not a party to this

Consent Decree prior to the date hereof, other than as assigned to the ACS Group under the Letter Agreement.

15. During his remaining service, the Trustee will agree to use reasonable efforts until the Bankruptcy Case is closed to assist the ACS Group in any litigation which results from any action taken by the ACS Group to obtain coverage under DeMert's insurance policies, as referenced in the Letter Agreement, including, but not limited to, serving as a party plaintiff in any lawsuit filed to enforce payment to the ACS Group under such insurance policies.

16. The ACS Group agrees to reimburse the Trustee for his reasonable fees and expenses, including, but not limited to, attorneys fees and expenses, incurred in connection with his efforts to assist the ACS Group as described in paragraph 15 above.

IX. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

17. Except as provided in Paragraphs 13 and 14, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. Except as provided in Paragraphs 13 and 14, the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which they may have with respect to

any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

18. The Parties agree, and by entering this Consent Decree this Court finds, that DeMert is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person.

19. DeMert agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA, DOJ and the State in writing no later than 60 days prior to the initiation of such suit or claim. DeMert also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA, DOJ and the State in writing within 10 days of service of the complaint or claim upon it. In addition, DeMert shall notify EPA, DOJ and the State within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

20. Notwithstanding the provisions of preceding Paragraphs 17, 18, and 19, the United States acknowledges that the Trustee has assigned to the ACS Group DeMert's right to receive payments under the insurance policies referenced in the Letter Agreement for DeMert's alleged share of liability for

past and future response costs with respect to the ACS Site. Further, the United States hereby assigns to the ACS Group, its right, if any, to recover under DeMert's insurance policies, as referenced in the Letter Agreement, relating to cleanup of the ACS Site.

21. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, DeMert shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by the United States set forth in Section VI.

X. CERTIFICATION OF DEMERT

22. Until 10 years after the entry of this Consent Decree, DeMert shall preserve and retain all records now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

23. After the conclusion of the document retention period in the preceding paragraph, DeMert shall notify EPA and DOJ at least 90 days prior to the destruction of any such records, and, upon request by EPA or DOJ, DeMert shall deliver any such records to EPA. DeMert may assert that certain

records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If DeMert asserts such a privilege, it shall provide Plaintiff with the following: (1) the title of the record; (2) the date of the record; (3) the name and title of the author of the record; (4) the name and title of each addressee and recipient; (5) a description of the subject of the record; and (6) the privilege asserted. However, no records created or generated pursuant to the requirements of this or any other settlement with the United States shall be withheld on the grounds that they are privileged.

24. DeMert hereby certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or other information relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or the filing of suit against it regarding the Site, and that it has fully complied with any and all EPA requests for information regarding the Site and DeMert's financial circumstances pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. §6927; and

b. submitted to EPA Financial Information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the Financial Information was submitted to EPA and the time DeMert executes this Consent Decree.

XI. NOTICES AND SUBMISSIONS

25. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, DeMert and the ACS Group, respectively.

As to the United States Department of Justice:

By U.S. Mail

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
Re: DJ # 90-11-3-1094
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

By Courier

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
Re: DJ # 90-11-3-1094
U.S. Department of Justice
1425 N.Y. Ave., N.W.
13th Floor
Washington, D.C. 20005

As to the United States Environmental Protection Agency:

William E. Muno
Director, Superfund Division
United States Environmental Protection Agency Region V
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Kevin Adler
Remedial Project Manager
Superfund Division
United States Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

As to DeMert:

Michael J. Small, Esq.
Foley & Lardner LLP
321 North Clark Street
Suite 2800
Chicago, Illinois 60610

As to the ACS Group:

Mark Steger, Esq.
Robert J. Labate, Esq.
Holland and Knight LLC
131 S. Dearborn Street, 30th Floor
Chicago, Illinois 60603

XII. RETENTION OF JURISDICTION

26. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XIII. INTEGRATION

27. This Consent Decree constitutes the final, complete and exclusive Consent Decree and understanding between the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

28. This Consent Decree will be subject to approval by the United States District Court for the Northern District of Illinois and will be filed with that Court by the Trustee. This Consent Decree shall be lodged with the United States District Court for the Northern District of Indiana by the United States for a period of not less than 30 days for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. §9622(d)(2), and 28 C.F.R. §50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding this Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. DeMert and the ACS Group consent to the entry of this Consent Decree without further notice.

29. If for any reason this Court should decline to approve this Consent Decree in the form presented, this Consent Decree is voidable at the sole discretion of any party and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XV. SIGNATORIES/SERVICE

30. Each undersigned representative of DeMert, and the members of the ACS Group, and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

31. DeMert and the members of the ACS Group hereby agree not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified DeMert and the ACS Group in writing that it no longer supports entry of the Consent Decree.

32. DeMert and the members of the ACS Group shall each identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. DeMert and the members of the ACS Group hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

33. DeMert need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XV. FINAL JUDGMENT

34. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment among the United States, DeMert, and the ACS Group. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 200_.

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. DeMert*, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR THE UNITED STATES OF AMERICA

~~THOMAS L. SANSONETTI~~
Assistant Attorney General
Environmental and Natural Resources
Division

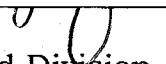
~~GREGORY L. SUKYS~~
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044
(202) 514-2068/616-6584 (FAX)

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. DeMert*, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:


JOSEPH S. VAN BOKKELEN
United States Attorney
Northern District of Indiana

WAYNE T. AULT
Assistant United States Attorney
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320
219-937-5500/219-852-2770(FAX)
wayne.ault@usdoj.gov

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:



RICHARD C. KARL
Acting Director, Superfund Division
Director, Superfund Division
U.S. Environmental Protection Agency-
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604



MICHAEL J. McCLARY
Associate Regional Counsel
U.S. Environmental Protection Agency-
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
(312) 886-7163

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR DEFENDANT
DeMERT & DOUGHERTY, INC.,

ALEX D. MOGLIA, AS TRUSTEE OF THE
CHAPTER 7 ESTATE OF DEMERT

If different from above, the following is the name and address of DeMert's agent
for service of process, and the name and address of DeMert's counsel. Counsel
may act as agent for service.

Agent for Service

Attorney

Name

Name

Address

Address

Telephone

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

ABBOTT LABORATORIES

Name of ACS Group Member

100 ABBOTT PARK RD, ABBOTT PARK, IL

Address

847/937-5267

Telephone Number

NANCY KIM

Name of Officer ~~NYMK~~ NYMK

Signature of Officer ~~NYMK~~ NYMK J

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

American Chemical Service, Inc.

Name of ACS Group Member

420 S. Colfax Avenue/P.O. Box 190 Griffith, IN 46319

Address

219/924-4370

Telephone Number

James Tarpo

Name of Officer

Signature of Officer V

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Wyeth, on behalf of Packaging Corporation of America (EKCO)*
Name of ACS Group Member

5 Giralda Farms, Madison, NJ 07940
Address

973-660-5000
Telephone Number

Steven A. Tasher
Name of Officer

Signature of Officer

- * Wyeth
American Home Products
Pactiv Corporation
Packaging Corporation of America (Ekco)
Ekco-Alcoa Container

FOR ACS GROUP

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. [redacted] (No. 03-5001401, N.D. Ind.) pertaining to the ACS
Superfund Site.
Name of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR ACS GROUP

Ashland Inc.*
Name of ACS Group Member

PO Box 2219, Columbus OH 43219
Address

(614) 790-3319
Telephone Number

Mark J. Steger
By: Name *Mr. Ashland Agent*

[Signature]
Signature

* Ashland, Inc.
Ashland Chemical Company

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

BORGWARNER INC

Name of ACS Group Member

Thomas D. Lupo

Address

Seyfarth Shaw
55 E. Monroe, Chicago,

Telephone Number

Illinois 60603
312/269-8889

Name of Officer

Signature of Officer

f/k/a Borg-Warner
Automotive, Inc.
and its corporate
predecessors-in-
interest, Borg-
Warner Security
Corp. and
Borg-Warner
Corporation

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v.
DeMert & Dougherty, Inc., (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Cook Composites and Polymers Co. (f/k/a Freeman Chemical Corp.)
Name of ACS Group Member

820 E. 14th Avenue, North Kansas City, MO 64089
Address

816-391-6000
Telephone Number

Michael Gromacki – Director - QSE
Name of Officer

Signature of Officer

06-11-2004

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

The C.P. Hall Company
Name of ACS Group Member

311 S. Wacker Drive #470
Address

312.554-7447
Telephone Number

Thomas C. Seum
~~Name of Officer~~

/
Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

CTS Corporation*

Name of ACS Group Member

905 West Boulevard N. Elkhart, IN 46514

Address

(574) 293-7511

Telephone Number

Richard G. Cutter, III

Name of Officer Vice President, Secretary
and General Counsel

Signature of Officer

* CTS Corporation
CTS Microelectronics, Inc.

FOR ACS GROUP

Name of ACS Group Member

312-236-2587

Telephone Number

Name of ~~Officer~~ AGENT

Signature of ~~Officer~~ AGENT


THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

CSX Transportation, Inc. *
Name of ACS Group Member

500 Water St., Jacksonville, FL 32202
Address

904-359-3200
Telephone Number

Mark J. Steger
By: ~~Name~~ 


Signature

* CSX Transportation, Inc.
The Chesapeake and Ohio Railway Company
The Baltimore and Ohio Railway Company

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

*Du-Wel Products, Inc. a wholly owned subsidiary of
Inverness Castings Group, Inc.*

Name of ACS Group Member

4550 Belleview KCMO 64111

Address

816-756-5800

Telephone Number

Erlene Krigel, Bankruptcy Trustee

Name of Officer

[Signature], Bankruptcy Trustee

Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v.
DeMert & Dougherty, Inc., (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Invitrogen Corporation, Successor to Dexter Corporation*

Name of ACS Group Member

1600 Faraday Avenue, Carlsbad, CA 92008

Address

760-476-6987

Telephone Number

John A. Cottingham S.V.P., General Counsel & Secretary

Name of Officer

<
Signature of Officer

1220656_v2

- * Invitrogen Corp.
 Akzo Nobel Inc.
 Akzo Nobel Aerospace Coatings, Inc.
 Dexter Corporation

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR ACS GROUP

E.I. duPont de Nemours and Co. *
Name of ACS Group Member

1007 Market St., Wilmington, DE 19898
Address

(302) 774-5113
Telephone Number

Mark J. Steger
By: Name *As Authorized Agent*

[Signature]
Signature

* E.I. DuPont de Nemours and Company, Inc. (DePont)
Continental Oil Company (Conoco)
Tau Laboratories of Indiana

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Eli Lilly and Company*

Name of ACS Group Member

Lilly Corporate Center
Indianapolis, IN 46285

Address

(317) 276-2000

Telephone Number

Robert A. Armitage

Name of Officer

JMH Signature of Officer

* Eli Lilly and Company
ELANCO

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Ferro Corporation*

Name of ACS Group Member
1000 Lakeside Avenue
Cleveland, Ohio 44114

Address

216-875-6122

Telephone Number

James C. Bays

Name of Officer

Signature of Officer

* Ferro Corp
Keil Chemical

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

FLINT INK CORPORATION

SINCLAIR & VALENTINE

Name of ACS Group Member

4600 ARROWHEAD DRIVE, ANN ARBOR, MI 48105
Address

734-622-6415
Telephone Number

LAWRENCE E. KING, VICE PRESIDENT, GENERAL COUNSEL & SECRETARY
Name of Officer

✓
Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

G. D. Searle *
Name of ACS Group Member
Michael G. Mahoney
c/o Pfizer, Inc., 235 East 42nd Street, New York, NY 10017
Address

212-573-1870
Telephone Number

Mark J. Steger
Name of ~~Officer~~ Authorized Agent

[Signature]
Signature of ~~Officer~~ Authorized Agent

- * Pfizer Inc.
- Pharmacia
- G.D. Searle & Co.
- Monsanto Co.
- Searle Food Resources
- Nutrasweet

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

General Electric *
Name of ACS Group Member

One Plastics Ave., Pittsfield, MA 01201
Address

(413) 448-7404
Telephone Number

Mark J. Steger
By: Name *As Authorized Agent*

Signature

- * General Electric Company
- GE Plastics
- Hotpoint
- Roper Corporation
- G.E. Medical

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

THE GLIDDEN COMPANY *
(by its indemnitor, Millennium Holdings, Inc.)

Name of ACS Group Member

C/O SEYFARTH SHAW, 55 East Monroe St., Chgo, IL 60603

Address

312-346-8000

Telephone Number

Andrew Perewé

Name of ~~Officer~~ Authorized Signatory

Signature of ~~Officer~~ Authorized Signatory

* Glidden Company (The)
Durkee Industrial Foods

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

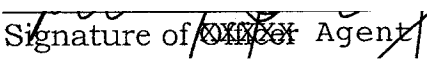
FOR ACS GROUP

ICG/Holliston*
Name of ACS Group Member

131 S. Dearborn Street, 30th Floor, Chicago, IL 60603
Address

312-715-5753
Telephone Number

Mark J. Steger, as authorized agent
Name of ~~Officer~~ Authorized Agent


Signature of ~~Officer~~ Agent

*Industrial Coatings Group, Inc./Joanna Western Mills
Company / ICG, Incorporated

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

KNS COMPANIES*

Name of ACS Group Member

475 Randy Road Carol Stream, IL 60188

Address

630-665-9010

Telephone Number

EDWIN F. ROLAND - PRESIDENT

Name of Officer

Signature of Officer

8/3/04

* KNS Companies
Kerr Chemical
KMS Companies, Inc.

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Brenntag Great Lake f/k/a MILSOLV Corp. *
Name of ACS Group Member

425 Walnut St., Ste. 1800, Cincinnati, OH 45202
Address

(513) 381-2838
Telephone Number

Mark J. Steger
By: Name *As Authorized Agent*

Signature *[Signature]*

* Brenntag Great Lakes, LLC
Brenntag Stinnes
MILSOLV
Milwaukee Solvents & Chemicals

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

3M Company (f/k/a Minnesota Mining and Manufacturing Company) *

Name of ACS Group Member

%John Allison, 3M Office of General Counsel

3M Center, Bldg 220-11W-02, St. Paul, MN 55144-1000


Address

651/736-3993

Telephone Number

Janet L. Yeomans

Name of Officer

Signature of Officer 

* Minnesota Mining and Manufacturing Company (3M)
National Advertising

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Morton International *
Name of ACS Group Member
c/o Thomas T. Terp
Taft, Stettinius & Hollister, 425 Walnut St., Suite 1800
Address Cincinnati, OH 45202-3957
513-381-2838
Telephone Number

Mark J. Stagen
Name of ~~Officer~~ Authorized Agent

[Signature]
Signature of ~~Officer~~ Authorized Agent

* Rohm and Haas Company
Morton International, Inc.
Bee Chemical Company

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Exxon Mobil Corporation for Mobil Chemical Company*
Name of ACS Group Member

16825 Northchase Dr. Rm #922, Houston, TX 77060
Address

281-659-8482
Telephone Number

Zane K. Bolen
Name of Officer

Signature of Officer

* Exxon Mobil Company
Mobil Chemical Company
Mobil Oil Corporation

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

MOTOROLA, INC.

Name of ACS Group Member

1303 E. Algonquin Rd, Schaumburg, IL 60196

Address

847-538-4493

Telephone Number

RICHARD GUIMOND

Name of Officer

A
Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Rogers Cartage Co.*
Name of ACS Group Member

611 South 28th St., PO Box 773, Milwaukee, WI
Address
53201-0773

414-671-8043
Telephone Number

Thomas A. Budnik
Name of Officer

Signature of Officer

* TankStar USA
Rogers Cartage Company

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

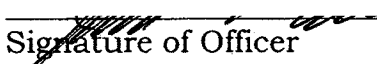
FOR ACS GROUP

Roy Strom Co *
Name of ACS Group Member

P.O. Box 428 Maywood IL 60153
Address

Telephone Number

James DeWitt
Name of Officer


Signature of Officer

* Roy Strom & Company
Roy Strom Refuse Service, Inc.

FOR ACS GROUP

Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Segua Corporation
(o/b/o Sun Chemical Corporation)
Name of ACS Group Member

3 University Plaza, Hackensack, NJ 07601
Address

201-343-1122
Telephone Number

Leonard P. Pasculli
Name of Officer

[Signature] 4/4/04
Signature of Officer

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR ACS GROUP

The Sherwin-Williams Co. *
Name of ACS Group Member

101 Prospect Ave. NW Cleveland OH 44115
Address

(216) 566-2000
Telephone Number

Mark J. Steger
By: Name *AS Authorized Agent*

[Signature]
Signature

* Sherwin-Williams Company
Dupli-Color Products

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

T.L. SWINT INDUSTRIES INC *
Name of ACS Group Member

P.O. Box 277 PALATINE, IL 60078
Address

847-358-3834
Telephone Number

THOMAS L. SWINT
Name of Officer

[Signature]
Signature of Officer

* T.L. Swint Industries
J.A. Gits Plastic Corp.

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

UNION CARBIDE CORPORATION * *old SW*
Name of ACS Group Member

400 W Sam Houston Parkway South, Houston, TX 77042
Address

713-978-2394

Telephone Number

Duncan A. Stuart
Name of Officer *D. A. Stuart*

[Signature]
Signature of Officer

* Dow Chemical
Union Carbide
London Chemical

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR ACS GROUP

The Valspar Corporation *
Name of ACS Group Member

1101 3rd St. South, Minneapolis, MN 55415
Address

(612) 375-7306
Telephone Number

Mark J. Steger
By: Name *AS Authorized Agent*

Signature *[Signature]*

* Valspar Corporation
McWhorter
Midwest Syn. Div.
Elliot Paint

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Westinghouse (VIACOM) *
Name of ACS Group Member

2 Gateway Ctr. 8th Floor, Pittsburgh, PA 15222
Address

(412) 394-5668
Telephone Number

Mark J. Steger
By: Name, *As Authorized Agent*

~~Signature~~ " " " " " "

- * VIACOM, Inc.
CBS Corporation
Westinghouse Electric Corporation
Knoll Furniture

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

WHIRLPOOL CORPORATION

Name of ACS Group Member

2000 M-63

Benton Harbor, MI 49022

Address

269-923-3008

Telephone Number

Pamala L. Phillipi

Name of Officer

Signature of Officer (Legal Assistant)

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. DeMert*, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS Superfund Site:

FOR ACS GROUP

WHITE CAP, INC. N/K/A AMCOR WHITE CAP
Name of ACS Group Member

c/o R. HARRIS, 180 N. MICHIGAN AVE. SUITE 2105
Address CHICAGO, IL 60601

312-236-2587
Telephone Number

Robert P. Harris
Name of Officer AGENT

Signature of ~~Officer~~ AGENT

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of
United States v. DeMert, (No. 2:02CV434, N.D. Ind.) pertaining to the ACS
Superfund Site:

FOR ACS GROUP

Whittaker Corporation *

Name of ACS Group Member

1955 N. Surveyor Avenue
Simi Valley, California 93063

Address

(805) 526-5700 Ext. 6650

Telephone Number

Eric G. Lardiere, Vice President, Secretary & General Counsel

Name of Officer .. // //

Signature of Officer

- * Whittaker Coatings
Batavia Coatings Division
Minneapolis Coatings
Dayton Chemical
Rockdale Coatings

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA and
STATE OF INDIANA,

Plaintiffs,

CIVIL ACTION NO.

vs.

AMERICAN CHEMICAL SERVICE , INC.,
ET AL.,

Defendants.

CONSENT DECREE

APPENDIX A

(ACS GROUP MEMBERS)

1. Abbott Laboratories;
2. American Chemical Service, Inc.;
3. American Home Products, Packaging Corporation of America (Ekco), EKCO-Alcoa Container; and Pactiv Corporation, via Wyeth;
4. American National Can Company, National Can Corporation, Guardian Packaging, and Rexam, via Rexam Beverage Can Company;
5. Ashland Inc. (including Ashland Chemical Company);
6. Borg Warner, Inc., f/k/a Borg-Warner Automotive, Inc., on behalf of itself and its corporate predecessors in interest, Borg-Warner Security Corporation and Borg-Warner Corporation;
7. CBS Corporation, Westinghouse Electric Corporation, Knoll Furniture, and VIACOM, Inc., via Westinghouse (VIACOM);
8. Cook Composites & Polymer Co., f/k/a Freeman Chemical Corporation;

9. The C.P. Hall Company;
10. CTS Corporation (including CTS Microelectronics, Inc.);
11. Crown Cork & Seal Company, Inc.;
12. CSX Transportation, Inc. (including the Chesapeake and Ohio Railway Company and the Baltimore and Ohio Railway Company);
13. The Dexter Corporation, Invitrogen Corp., Akzo Nobel Inc, Akzo Nobel Aerospace Coatings Inc., via Invitrogen Corporation;
14. Du-Wel Products a/k/a Du-Wel Decorative Products, Inc. (including Du-Wel Hartford);
15. E.I. Dupont de Nemours and Company (including Continental Oil Company [CONOCO] and Tau Laboratories of Indiana);
16. Eli Lilly and Company (including ELANCO);
17. Ferro Corporation (including Keil Chemical);
18. Flint Ink Corporation (including Sinclair & Valentine);
19. G.D. Searle & Co. (on behalf of itself and Pfizer, Inc., Pharmacia, Monsanto Co., Searle Food Resources, and Nutrasweet);
20. General Electric Company (including G.E. Plastics, Hotpoint, Roper Corporation and G.E. Medical);
21. The Glidden Company (on behalf of itself and Durkee Industrial Foods), by its indemnitor, Millennium Holdings, Inc.;
22. Industrial Coatings Group, Inc. (including Joanna Western Mills Company and ICG, Incorporated), via ICG/Holliston;
23. KNS Companies (including Kerr Chemical and KMS Companies, Inc.);
24. MILSOLV f/k/a Milwaukee Solvents & Chemicals, Brenntag Stinnes, via Brenntag Great Lakes, LLC;
25. Minnesota Mining and Manufacturing Company, now known as 3M Company (including Minnesota Mining and Manufacturing, and National Advertising);
26. Morton International, Inc. on behalf of itself, Rohm and Haas Company and Bee Chemical Company;

27. Mobil Chemical Company (including Mobil Oil Corporation), and Exxon Mobil Company, via Exxon Mobil Corporation;
28. Motorola, Inc.;
29. Rogers Cartage Company;
30. Roy Strom & Company, and Roy Strom Refuse Service, Inc., via Roy Strom Co.;
31. S.C. Johnson & Son, Inc.;
32. Sequa Corporation on behalf of Sun Chemical Corporation;
33. The Sherwin-Williams Company (including Sherwin Williams Company, and Dupli-Color Products);
34. T.L. Swint Industries (including J.A. Gits Plastic Corp.);
35. Union Carbide Corporation, on behalf of itself and Union Carbide, Dow Chemical and London Chemical;
36. Valspar Corporation (including McWhorten, Midwest Syn. Division and Elliot Paint);
37. Whirlpool Corporation;
38. White Cap, Inc., now known as Amcor White Cap; and
39. Whittaker Corporation (including Whittaker Coatings, Batavia Coatings Division, Minneapolis Coatings, Dayton Chemical and Rockdale Coatings).

RJ

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Case No. 02 C 8027
)	Honorable Charles R. Norgle, Sr.
DeMert & Dougherty, Inc.,)	
)	Bankruptcy Case No. 96 B 0851
Debtor.)	(Pending in the Northern District of Illinois)

**ORDER GRANTING TRUSTEE'S MOTION
(A) FOR APPROVAL OF CONSENT DECREE
AND (B) FOR RESTRICTION OF NOTICE**

This cause having come before the Court on the Trustee's Motion to Grant Trustee's Motion (A) For Approval of Consent Decree and (B) For Restriction of Notice, due notice having been given to all parties entitled thereto and the Court being fully advised in the premises,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted;
2. The Settlement between the Trustee and the United States of America and the ACS Group is hereby approved;
3. Notice of the Settlement to those persons and entities who have requested notice in this matter, to PRPs that have filed claims in the Debtor's bankruptcy case, to Du-Wel Products, Du-Wel Hartford and Du-Wel Decorative Products, and to the U.S. Trustee is sufficient; and

4. This is a final order under 28 U.S.C. §§ 157 and 158 and is effective immediately upon entry.

ENTERED: 3/25/2005

Honorable Charles R. Norgle, Sr.
United States District Court Judge

Order Prepared By:
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